

Legislative Bulletin.....March 4, 2004

Contents:

H.R. 3752—Commercial Space Launch Amendments Act

Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 0

Year to Date Prior to Today's Bills: 7

Total Cost of Discretionary Authorizations: \$38 million over five years

*Year to Date Prior to Today's Bills: \$10.296 billion over five years**

Total Amount of Revenue Reductions: 0

Year to Date Prior to Today's Bills: \$304 million over five years

Total Change in Mandatory Spending: 0

*Year to Date Prior to Today's Bills: -\$398 million over five years**

Total New State & Local Government Mandates: 0

Year to Date Prior to Today's Bills: 3

Total New Private Sector Mandates: 0

Year to Date Prior to Today's Bills: 6

*Not including the costs contained in H.R. 3783, the Surface Transportation Extension Act, which passed the House on 2/11/04. A cost estimate remains unavailable.

H.R. 3752—Commercial Space Launch Amendments Act (Rohrabacher)

Order of Business: The bill is scheduled to be considered on Thursday, March 4th, subject to a modified open rule (H.Res. 546). That is, the rule makes in order only those amendments that are pre-printed in the *Congressional Record* or are pro forma amendments for the purpose of debate only. See below for summaries of the two pre-printed amendments.

Summary: H.R. 3752 would amend the Commercial Space Launch Act (CSLA) (49 U.S.C. 701) to incorporate commercial **human** spaceflight into the commercial spaceflight regulatory regime (see “Background” section below). More specifically, the bill would:

- place all commercial space flight authority, including authority to regulate commercial human spaceflight, with the Federal Aviation Administration’s (FAA) Office of the Associate Administrator for Commercial Space Transportation (AST);
- allow AST to issue experimental permits that can be granted more quickly and with fewer requirements than licenses to facilitate the testing of new types of reusable suborbital rockets;
- require AST to issue regulations for crews relating to training and medical condition;
- direct that spaceflight participants be informed of the risks of their participation and sign written statements of informed consent;
- require that both crew and spaceflight participants execute mutual waivers of liability with licensees (or experimental permit holders) and the federal government;
- extend the existing liability indemnification for the entire commercial space transportation industry (which would be expanded to include licensed, non-experimental commercial human space launches) for three years;
- exclude experimental launches and spaceflight *participants* from federal indemnification; and
- initiate a study on how best to gradually eliminate the liability indemnification regime for the commercial space transportation industry by 2008 or as soon as possible thereafter.

H.R. 3752 would also authorize “such sums as may be necessary” for AST in fiscal years 2005-2007. Previous authorizations for AST had exact dollar amounts (\$12,607,000 for fiscal year 2001 and \$16,478,000 for fiscal year 2002). Congress appropriated \$11,776,000 to AST in FY2004.

Background: Currently, any individual or private entity wishing to conduct a commercial space launch or reentry in the United States or operate a launch or reentry site in the United States must obtain a license from the FAA to do so. Plus, American citizens must obtain authorization from the FAA to conduct commercial space launches or reentries or to operate launch or reentry sites anywhere in the world.

The Science Committee explains in House Report 108-429: “When the CSLA was enacted, only expendable launch vehicles (ELVs) and certain types of ballistic missiles were available for private sector use. These vehicles typically are used to lift satellites and other types of cargo into space. Since enactment of the CSLA, commercial enterprises have pursued the development of reusable launch vehicles (RLVs). A reusable launch vehicle is one that is designed to return to Earth from space substantially intact. Congress amended the CSLA in 1998 to add licensing authority for reentry vehicles, including RLVs. However, there currently is no express jurisdiction granted under the law for the regulation of commercial human spaceflight. Moreover, the existing licensing process does not distinguish between experimental and operational RLVs.”

On December 31, 2004, the federal indemnification of the commercial space launch industry against successful claims by uninvolved third parties is set to expire. The United States currently agrees to pay third party claims in amounts up to roughly \$2.2 billion above the amount of insurance that a licensee carries. But current law is unclear as to whether such indemnification applies to commercial **human** space flight licensees, their crews, and paying passengers. To date, this indemnification has not been exercised.

A few entrepreneurial companies hope in the near future to regularly and safely provide round trips into space for paying customers. The launch vehicles that will be used to carry human passengers into space could also have other commercial applications, such as the transportation of cargo, commercial remote sensing, microgravity research, and atmospheric research.

Amendments Pre-Printed in the Congressional Record: The rule (H.Res. 546) makes in order only those amendments that are pre-printed in the *Congressional Record* or are pro forma amendments for the purpose of debate only. The only pre-printed amendments are as follows:

Boehlert (Manager's Amendment): Terminates (three years after the first licensed launch of a launch vehicle carrying a spaceflight participant) the requirement for spaceflight participants to make reciprocal waivers of liability with licensees. Also makes clarifying and technical changes.

Flake: Strikes the "such sums" for the AST authorizations in FY2005-FY2007 and replaces them with \$11,776,000 (level funding) for each of the three fiscal years.

Committee Action: On February 4, 2004, the Science Committee marked up and favorably reported the bill by voice vote to the full House.

Cost to Taxpayers: CBO estimates that H.R. 3752 would authorize appropriations of \$12 million in FY2005 and \$38 million over the FY2005-FY2007 period. CBO also estimates that extending and expanding the Department of Transportation's indemnification authority through 2007 would have no significant budgetary impact over the next five years, largely because operators of commercial space vehicles must have significant private insurance coverage in order to be licensed. Further, CBO estimates that authorizing AST to issue experimental permits would have no significant budgetary impact because the activities covered by such permits would not be eligible for indemnification.

Does the Bill Create New Federal Programs or Rules?: The bill would extend the regulatory regime for commercial spaceflight to include commercial human spaceflight and would initiate one new study. Further, the federal indemnification of the commercial spaceflight industry would be expanded.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: The bill would extend existing licensing requirements to cover commercial human spaceflight and create a new type of permit ("experimental permit").

Constitutional Authority: The Science Committee, in House Report 108-429, fails to cite a specific clause of constitutional authority.

RSC Staff Contact: Paul S. Teller, paul.teller@mail.house.gov, (202) 226-9718
